

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RICHARD ALLEN NEPTUNE,

Plaintiff,

v.

CIVIL ACTION NO. 1:12cv57
(Judge Keeley)

MICHAEL J. ASTRUE, COMMISSIONER
OF SOCIAL SECURITY,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on April 9, 2012, the Court referred this Social Security action to United States Magistrate Judge James E. Seibert with directions to submit proposed findings of fact and a recommendation for disposition.

On October 2, 2012, Magistrate Judge Seibert filed his Report and Recommendation ("R&R") (dkt. no. 17), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

ORDER ADOPTING MAGISTRATE JUDGE'S
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Upon consideration of Magistrate Judge Seibert's recommendation and having received no written objections,¹ the Court accepts Magistrate Judge Seibert's recommendation in whole. According, the Court

1. **GRANTS** the Commissioner's motion for Summary Judgment (dkt. no. 15);
2. **DENIES** the plaintiff's motion for Summary Judgment² (dkt. no. 14); and
3. **DISMISSES** this civil action **WITH PREJUDICE** and **ORDERS** that it be stricken from the docket of this Court.

Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: November 28, 2012.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ Neptune's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

² As noted in the R&R, the Magistrate Judge treated Plaintiff's "Response to Defendant's Answer" as a motion for summary judgment (R&R 1).